



American Council for an Energy-Efficient Economy

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January 26, 2018

Ann Bailey
Branch Chief
ENERGY STAR Products
Office of Air and Radiation
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Ms. Bailey:

The American Council for an Energy-Efficient Economy (ACEEE), a nonprofit 501(c)(3) organization, acts as a catalyst to advance energy efficiency policies, programs, technologies, investments, and behaviors. We believe that the United States can harness the full potential of energy efficiency to achieve greater economic prosperity, energy security, and environmental protection for all of its people. We share ENERGY STAR's mission of improving energy efficiency, and appreciate the opportunity to comment on changes to ENERGY STAR's process for setting product specifications.

ENERGY STAR is one of the most important energy programs in the United States, helping consumers and businesses save tens of billions of dollars each year, helping manufacturers and retailers market quality products, and helping states and utilities manage their energy systems. We need to strengthen and not disrupt this essential energy efficiency program. As a voluntary education program, ENERGY STAR's success rests on twin pillars:

- Providing useful, up-to-date, and trusted information to consumers, which requires independence, flexibility, and analytical rigor, and
- Working with manufacturers, retailers, building owners, efficiency program managers, and other stakeholders to maximize participation in the program, which requires transparency, predictability, and fairness.

Any changes to the process must seek to strengthen both pillars or they may compromise the integrity of the overall program.

With the energy efficiency mission and those pillars in mind, we offer the following comments:

Standard Operating Procedures

In order to provide predictability for partners, the specification-setting process must be transparent, open, and fair. In order to maintain consumer trust and achieve the mission of saving energy, the process must be independent and timely, and include energy efficiency supporters. Thus, we applaud ENERGY STAR for setting and improving the Standard Operating Procedures (SOP) and urge you to follow them. We also urge that any updates to the SOP retain the flexibility needed to respond to market changes, innovations and new technologies, and partner and consumer needs.

Transparency

We applaud ENERGY STAR for your efforts to inform the public of proceedings and to be transparent about how you are addressing comments. We have found the current procedures effective. However, we have heard concerns from a few manufacturers about not receiving timely information. Thus, we encourage you to create an easy sign-up (and opt-out) for notifications on specific proceedings. You should also consider publishing notices in the federal register with an annual work plan and any necessary updates, and when you initiate a new proceeding. In addition, you could consider using a public docket such as at regulations.gov to post documents and receive comments, though we find the ENERGY STAR web pages on specifications more user-friendly and hope you will maintain them. These steps might reassure stakeholders without slowing or burdening the process.

However, we would oppose steps that would unnecessarily slow the process and could prevent timely updates that are essential for ensuring savings and preserving the ENERGY STAR label's integrity. It is very important that the work not be delayed waiting for Federal Register notices to appear, and we would oppose switching to formal rulemakings for this voluntary program.

We also support ENERGY STAR's efforts to make public the data used in setting specifications while maintaining the confidentiality of proprietary business information.

Comment periods

We support allowing 4 weeks (or a month) for commenting on significant proposals in order to allow full public participation, while still allowing shorter time periods for simpler proposals and urgent corrections.

We find the webinars that ENERGY STAR often provides to explain new proposals very useful, and urge you to do them shortly after release of the documents, and to allow at least three weeks for comments after the webinars to allow more time to develop fully informed comments.

Appeals

It is important that program decisions be fair and be consistent across program managers, and equally important that work of the program not be delayed and that the program not be mired in endless lawsuits. Clarification of the procedures for intra-agency review and opportunities for input might give some partners more assurance. However, we would oppose adding more external or judicial review. We note that certification and decertification decisions on specific models are different from decisions on specifications and program rules, and the process should be considered separately.

Sizes and Capacities

Allowing ENERGY STAR labels for the full range of a product category obviously will tend to maximize energy savings. But in some cases, determining the efficiency of a subcategory of products may not be possible (e.g., if the test procedure does not apply), or there may not be products in a subcategory that can be considered efficient. In addition, there are niche products in many product categories; we suggest ENERGY STAR focus its efforts where there are significant savings, and not be required to address all possible permutations. Generally, we have found ENERGY STAR's use of size-

dependent formulas in recent criteria, such as for televisions, an appropriate way to take size into account without arbitrarily barring products.

Alignment with Appliance Standards and Industry Standards

To ease participation in the program, ENERGY STAR should seek to align product categories, definitions, test procedures, and data submissions with the federal appliance standards program and with industry standards. Of course, the value of consistency cannot override the mission of providing reliable, useful information to consumers.

For products subject to federal efficiency standards, ENERGY STAR should use the associated test procedures, consistent with 42 USC 6293(c). For other products and additional metrics ENERGY STAR should use industry test methods developed as voluntary consensus standards when they meet the program needs, consistent with the National Technology Transfer and Advancement Act of 1995 and OMB Circular A-119. However, if an industry test procedure does not provide reasonable assurance of accurate ratings, it will need to be modified in order to serve the goal of providing accurate, trusted information.

Non-energy specifications

Although not in the SOP, we have heard concerns about environmental, quality, reliability, and other criteria for ENERGY STAR labels that are not directly focused on energy efficiency. ENERGY STAR's mission is "to identify and promote energy-efficient products and buildings," and that should be the focus of its work. However, there are times when using non-energy criteria is the best way to promote energy efficiency. For some products, the quality or reliability of efficient models is the key concern preventing wider acceptance, and the ENERGY STAR label should be used to mark quality products. For example, the public perception that CFLs did not perform well was a key barrier to their use; ENERGY STAR quality criteria helped consumers identify high-quality CFLs and increased their confidence in the product—these criteria have also been important in the smoother transition to LEDs. In some cases, quality, reliability, or environmental criteria may be necessary to protect the reputation of the ENERGY STAR brand—consumers regard ENERGY STAR as a "green" label and a mark of quality. Such non-energy criteria should be adopted when they further ENERGY STAR's energy efficiency mission.

Agency responsibilities

A major issue of discussion that is not in the SOP is whether some program responsibilities should be shifted between the Environmental Protection Agency (EPA) and the Department of Energy (DOE). In our experience the current division of responsibilities has worked well, and has addressed problems that occurred in the earlier division before the current Memorandum of Understanding. We are concerned that any significant change would cause major disruption for unclear benefits.

However, should the agencies see an imperative to move some product specifications, we believe it would be essential to prepare a transition plan and seek stakeholder input. Key elements of such a plan would include:

- Support for the ENERGY STAR program and for the changes from EPA and from DOE
- Identifying sufficient funding and staffing at each agency for the realigned programs

- Ensuring consistent criteria, certifications, and procedures at EPA and DOE
- Avoiding and resolving conflicts between the agencies, such as overlapping specifications
- Unified public relations, including the web site and any promotional campaigns

We thank you for your critical work to promote energy efficiency and for your consideration of these comments. We stand ready to assist in further addressing these issues and other ways to make the program even stronger.

Sincerely,

A handwritten signature in cursive script that reads "Lowell W. Ungar".

Lowell Ungar
Senior Policy Advisor